



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for

2013 LRB-3092/P3 (For: Senator Shilling)

has been transferred to the drafting file for

2015 LRB-1667 (For: Senator Shilling)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 02/11/2015 (Per: MED)

The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the digital drafting file.

2013 DRAFTING REQUEST

Bill

Received: **9/6/2013** Received By: **mduchek**
Wanted: **As time permits** Same as LRB:
For: **Jennifer Shilling (608) 266-5490** By/Representing: **Nathan D. Houdek**
May Contact: Drafter: **mduchek**
Subject: **Occupational Reg. - prof lic** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Shilling@legis.wisconsin.gov**
Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Establish licensure of clinical exercise physiologists

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 9/23/2013			_____			
/P1	mduchek 3/25/2014	wjackson 4/1/2014	jfrantze 9/25/2013	_____	mbarman 9/25/2013		State
/P2	mduchek 8/15/2014	wjackson 8/15/2014	jfrantze 4/1/2014	_____	lparisi 4/1/2014		State Crime
/P3			rschluet	_____	sbasford		State

Vers. Drafted

Reviewed

Typed
8/15/2014

Proofed

Submitted
8/15/2014

Jacketed

Required
Crime

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/6/2013 Received By: mduchek
Wanted: As time permits Same as LRB:
For: Jennifer Shilling (608) 266-5490 By/Representing: Nathan D. Houdek
May Contact: Drafter: mduchek
Subject: Occupational Reg. - prof lic Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Shilling@legis.wisconsin.gov
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Establish licensure of clinical exercise physiologists

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 9/23/2013			_____			
/P1	mduchek 3/25/2014	wjackson 4/1/2014	jfrantze 9/25/2013	_____	mbarman 9/25/2013		State
/P2		p3wly 8/15	jfrantze 4/1/2014	_____	lparisi 4/1/2014		State Crime

8/5/14

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/6/2013 Received By: mduchek
Wanted: As time permits Same as LRB:
For: Jennifer Shilling (608) 266-5490 By/Representing: Nathan D. Houdek
May Contact: Drafter: mduchek
Subject: Occupational Reg. - prof lic Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Shilling@legis.wisconsin.gov
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Establish licensure of clinical exercise physiologists

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 9/23/2013			_____			
/P1		wjackson 9/25/2013	jfrantze 9/25/2013	_____	mbarman 9/25/2013		State

FE Sent For: p2 wj 4/1

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/6/2013 Received By: mduchek
 Wanted: As time permits Same as LRB:
 For: Jennifer Shilling (608) 266-5490 By/Representing: Nathan D. Houdek
 May Contact: Drafter: mduchek
 Subject: Occupational Reg. - prof lic Addl. Drafters:
 Extra Copies: MPG

Submit via email: YES
 Requester's email: Sen.Shilling@legis.wisconsin.gov
 Carbon copy (CC) to: MPG

Pre Topic:

No specific pre topic given

Topic:

Establish licensure of clinical exercise physiologists

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek	/pl wlj 9/25	<i>[Signature]</i>	<i>[Signature]</i>			

FE Sent For:

<END>

Clinical Exercise Physiology Licensure Act

*An ACT to create Licensure Requirements
for the Practice of Clinical Exercise Physiology (CEP).
February 22, 2013*

Be it enacted by the People of the State of Utah, represented in the Utah Legislative House and Senate:

Section 1. Short Title.

This Act may be cited as the Clinical Exercise Physiologist Licensure Act.

Section 2. Declaration of Public Policy.

The practice of Clinical Exercise Physiology in the State of Utah is provided by health care professionals who have fulfilled educational, experiential and credentialing requirements as defined by Clinical Exercise Physiology Association (CEPA), the American College of Sports Medicine (ACSM), and the Committee on Accreditation for the Exercise Sciences (CoAES). The CEPA is the national professional society for CEPs and thus sets the definition and scope of practice for clinical exercise physiologists (CEPs). The ACSM is the credentialing body for the certification exams for CEPs. The CoAES establishes the standards and guidelines for academic programs in clinical exercise physiology. The increasing population of persons with chronic diseases and conditions who could benefit from clinical exercise testing, assessment and exercise training services requires that the provision of such services be regulated to ensure the provision of safe, effective and appropriate patient care services.

The people of Utah deserve the best care available and will benefit from the assurance of initial and ongoing professional competence of CEPs practicing in this State. The services of licensed CEPs will improve and enhance the lives of individuals with chronic diseases and conditions for which exercise training can provide therapeutic benefit, by enabling them to maintain productive lives. Unregulated provision of care does not adequately meet the needs or serve the interests of the residents of this State.

In keeping with State requirements imposed on similar healthcare disciplines, licensure of CEPs will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels. This Act shall be liberally construed to best carry out these subjects and purposes.

Section 3. Definitions.

As used in this Act:

(1) "Clinical Exercise Physiologist" means a person who is duly licensed to practice clinical exercise physiology in the State. When physician referred, the clinical exercise physiologist administers clinical exercise tests; develops and implements exercise training protocols and programs; and provides education and instruction based upon test outcomes and delineated programs. The clinical exercise physiologist is skilled in risk factor stratification and modification within preventive, clinical, diagnostic, and rehabilitative settings catering to individuals with cardiovascular, pulmonary, and metabolic disease. In addition, when physician referred the clinical exercise physiologist prescribes exercise as a therapeutic tool to maximize health as part of the primary, secondary and tertiary prevention of these chronic diseases; and serves as a contributing member of a multi-disciplinary team in the continuance of care of patients with oncologic, immunologic, hematologic, chronic orthopedic, musculoskeletal, and neuromuscular disorders.

(2) "Exercise Protocols and Programs", the intensity, duration, frequency, volume, and mode of activity to improve and/or maintain an individual's functional capacity.

(3) "Board", the licensure board for CEPs, established under this Act.

(4) *Nothing in this Chapter shall be construed to allow a licensed CEP to practice physical therapy as defined in Utah Physical Therapy Licensure Act nor shall any licensed CEP hold himself out as a physical therapist or a physical therapist assistant.*

Section 4. Exceptions.

This Act shall not be construed to prohibit:

(a) A person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;

Section 5. Board of Licensure for CEPs.

- (a) There is established a Board of Licensure for CEPs, which shall consist of five (5) voting members to be appointed by the Director. At least three members shall be practicing licensed CEPs. At least one member shall be a member of the public.
- (b) Each member of the Board shall serve a term of 3 years. Each member shall hold office and execute his or her Board responsibilities until the qualification and appointment of his or her successor. No member of the Board shall serve more than 2 state terms, whichever is greater.
- (c) The Board shall elect a chairperson and vice chairperson who shall be licensed under this Act.
- (e) A quorum of the Board shall consist of a majority of Board members currently appointed.
- (f) The Director may terminate the appointment of any member for cause which, in the opinion of the Director, reasonably justifies termination, which may include, but is not limited to, a Board member who does not attend four (4) consecutive meetings.
- (g) Membership of the Board should reasonably reflect representation from the geographic areas in this State.

Section 6. Board Immunity.

Members of the Board shall be immune from suit in any action based upon any disciplinary proceeding or other activities performed in good faith as members of the Board.

Section 7. Application for Original License.

An application for an original license shall be made to the Clinical Exercise Physiology licensing board in writing on a form prescribed by said board and shall be accompanied by the required fee, which shall not be refundable. An application shall require information that in the judgment of the Department will enable the Department to pass judgment on the qualifications of the applicant for a license.

Section 8. Qualifications for Licensure as a Clinical Exercise Physiologist.

- (a) To qualify for a license to practice as a clinical exercise physiologist, a person shall:
 - (1) hold a master's degree or higher in exercise physiology, exercise science, or kinesiology from an accredited college or university approved by the board, or from an accredited Exercise Physiology educational program, and obtain a minimum of 600 hours of clinical experience as a clinical exercise physiologist,
 - (2) or have graduated from an educational program in clinical exercise physiology, exercise science, kinesiology, or applied exercise physiology chartered in a sovereign state outside the United States and have furnished to the board such evidence as it may require: (1) that the applicant's education is substantially the equivalent of that of graduates of approved programs in the United States, and (2) that the applicant has sufficient qualifications, including the proficiency in the English language, to practice clinical exercise physiology,
 - (3) and passed the American College of Sports Medicine's Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board.

Section 9. Protection of Title.

(a) No person shall hold himself out as a clinical exercise physiologist or as being able to practice clinical exercise physiology or to render clinical exercise physiology services in this commonwealth unless he appears before the board and is subsequently licensed by the board. No person not so licensed may use in connection with his name the words or letters, "C.E.P.", "L.C.E.P.", or any other words, letters, abbreviation, or insignia indicating that he is a clinical exercise physiologist or a Licensed Clinical Exercise Physiologist.

Section 10. Transition Period.

(a) A license as a clinical exercise physiologist may be issued without examination to an applicant who does not meet the educational requirements of section 8, if the applicant has a bachelor's degree in exercise science, exercise physiology, or kinesiology AND provides to the board's satisfaction that THE APPLICANT has been in paid professional practice in the field of clinical exercise physiology for five years or 10,000 hours out of the last ten years preceding the effective date of the regulations implementing this act OR has been in paid professional practice in the field of clinical exercise physiology for a minimum of one year or 2,000 hours out of the last five years preceding the effective date of the regulations PLUS has passed the American College of Sports Medicine's

Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board.

(b) The provisions of this section shall expire one year following the effective date of the IMPLEMENTING REGULATIONS.

Section 11. Enforcement.

The licensure requirements of Sections 4, 9 and 11 shall not be enforced until 24 months after the effective date this Act.

Section 12. Renewal; Restoration; Military Service.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule of the Department. The Board shall establish re-examination and/or continuing education requirements for the renewal of a license.

(b) A person who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by:

(1) Making application to the Department;

(2) Filing proof acceptable to the Department of his or her fitness to have his or her license restored including, but not limited to, sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department; and

(3) Paying the required restoration fee. If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Board shall determine, by an evaluation program established by rule, his or her fitness to resume active status and may require the person to complete a period of evaluated clinical experience and may require successful completion of an examination.

(c) A person whose license expired while he or she was:

(1) In federal service on active duty within the armed forces of the United States or with the State militia called into service or training; or

(2) In training or education under the supervision of the United States preliminary to induction into military service;

may have his or her license renewed or restored without paying a lapsed renewal fee if, within two years after termination from the service, training or education except under conditions other than honorable, he or she furnished the Department with satisfactory evidence that he or she has been so engaged and that his or her service, training or education has been terminated.

Section 13. Elective Inactive Status.

(a) A person who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

(b) A person requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license as provided in Section 13 of this Act.

(c) A CEP whose license is on inactive status shall not provide CEP services in this State.

Section 14. Fees.

(a) The Department shall provide, by rule, a schedule of fees to be paid for licenses by all applicants. All fees are not refundable.

(b) The fees for the administration and enforcement of this Act including, but not limited to, original licensure renewal and restoration shall be set by rule by the Department.

(c) All fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

Section 15. Roster of Licensees.

The Department shall maintain a current roster of the names and addresses of all licensees and all persons whose licenses have been suspended or revoked within the past five years. This roster shall be available upon written request and payment of the required fee.

Section 16. Practice by Corporations.

Nothing in this Act shall restrict licensees from forming professional service corporations under the provisions of the Professional Service Corporation Act. No person may provide CEP services without a license in good standing.

Section 17. Grounds for discipline.

(a) The Department may refuse to issue or renew a license, may revoke or suspend a license, or may suspend, place on probation, censure or reprimand a licensee for one or any combination of the following:

- (1) Making a material misstatement in furnishing information to the Department or the Board.
- (2) Violations of or negligent or intentional disregard of this Act or its Rules.
- (3) Conviction of any crime that under the laws of the United States or of a state or territory of the United States is a felony or a misdemeanor, an essential element of which is dishonesty, or of a crime that is directly related to the practice of the profession.
- (4) Making a misrepresentation for the purpose of obtaining a license.
- (5) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.
- (6) Gross negligence under this Act.
- (7) Aiding or assisting another person in violating a provision of this Act or its Rules.
- (8) Failing to provide information within 60 days in response to a written request made by the Department.
- (9) Engaging in dishonorable, unethical or unprofessional conduct or conduct of a character likely to deceive, defraud or harm the public.
- (10) Habitual intoxication or addiction to the use of drugs.
- (11) Discipline by another state or territory of the United States, the federal government or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to one set forth in this Section.
- (12) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership or association a fee, commission, rebate or other form of compensation for professional services not actually or personally rendered.
- (13) A finding by the Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.
- (14) Abandonment of a patient or client.
- (15) Willfully making or filing false records or reports in his or her practice including, but not limited to, false records filed with State agencies or departments.
- (16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.
- (17) Solicitation of professional services using false or misleading advertising.
- (18) Failing to maintain eligibility requirements for licensure.

(b) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension.

The suspension will end only upon:

- (1) A finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient; and
- (2) The recommendation of the Board that the licensee be allowed to resume his or her practice.

(c) In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physician shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license, or denial of his or her license, until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without

reasonable cause.

(d) If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling or treatment by physicians approved or designated by the Department or Board, as a condition, term or restriction for continued, reinstated or renewed licensure to practice; or, in lieu of care, counseling or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions or restrictions and who fails to comply with such terms, conditions or restrictions, shall be referred to the Director for a determination

as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

(e) In instances in which the Director immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

(f) An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

Section 18. Restoration of Suspended or Revoked License.

At any time after the suspension or revocation of any license, the Department may restore the license to the accused person upon the written recommendation of the Board unless, after an investigation and a hearing, the Board determines that restoration is not in the public interest.

Section 19. Surrender of License.

Upon the revocation or suspension of a license, the licensee shall immediately surrender the license to the Department, and if the licensee fails to do so, the Department shall have the right to seize the license.

Section 20. Temporary Suspension of a License.

The Director may temporarily suspend the license of a diabetes educator provided that the Director finds that evidence in his or her possession indicates that a licensee's continuation in practice would constitute an imminent danger to the public. If the Director temporarily suspends a license, a hearing by the Board must be held within 30 days after the suspension.

Section 21. Penalties.

A person who is found to have violated a provision of this Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class Four felony for a second or subsequent offense.

Section 22. (State name) Administrative Procedure Act.

The (State name) Administrative Procedure Act is hereby expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act.

This Act takes effect January 1, (year law effective).

Licensure for Clinical Exercise Physiologists

Clinical exercise physiologists (CEPs) are master's-prepared health care professionals trained to work with patients with chronic disease under the direction of a physician, where exercise training has been shown to be of therapeutic benefit.

CEPs frequently work in cardiac rehabilitation in a clinical setting. There are approximately 300 CEPs in Wisconsin.

The field has provided highly competent practitioners to hospitals and cardiac rehabilitation programs in Wisconsin for over 30 years. For many of those years, the American College of Sports Medicine (ACSM) has offered **optional** certifications to CEPs. Mandatory licensure would build on these efforts and ensure high-quality standardized care.

Please support efforts to license the CEP profession.

The Need for Licensure

Licensure will ensure the protection of the health, safety, and welfare of the citizens of Wisconsin. The key benefits of CEP licensure include:

- **Patient Safety.** Licensure establishes required proficiency in knowledge, skills and abilities in the field of exercise physiology. It ensures that a well-trained workforce provides a clearly-defined service.
- **Transparency of Services.** Required licensure assures the public that each CEP has met education and training standards to practice exercise physiology.
- **Professional Integrity.** Licensure defines the unique scope of CEP practice guided by scientific evidence and patient outcomes. It prevents unlicensed individuals from representing themselves as CEPs.
- **Access to Healthcare.** Access to medically sound rehabilitative and preventive healthcare services is the right of every Wisconsin citizen. CEP licensure supports the role of therapeutic exercise as a critical component of disease management.

About Clinical Exercise Physiologists

Education & Training

Licensed CEPs will be required to:

- Hold a master's degree in exercise physiology or a related field
- Complete a minimum of 600 hours of clinical experience
- Obtain either Clinical Exercise Specialist or Registered Clinical Exercise Physiologist certification from ACSM
- Complete Advanced Cardiac Life Support and/or Basic Life Support training

Scope of Practice

Licensed CEPs will:

- Apply exercise principles shown to provide therapeutic or functional benefit
- Perform exercise evaluation (including ECG and hemodynamic monitoring), exercise prescription and supervision, health education, and outcome tracking
- Serve patients with - or at risk for - heart disease, diabetes, obesity, and other chronic diseases
- Work in hospitals, clinics, cardiac rehabilitation programs and fitness/wellness centers

Financial Implications of Licensure

This effort will be fiscally responsible. The benefits of licensure will come at minimal cost to Wisconsin taxpayers and will require minimal legislative appropriation. Affiliation with an active licensing board instead of creating an independent board is one method to contain costs. In addition, CEP licensing fees and schedules will be designed to offset and contain related costs.

There is no evidence that licensure will increase costs to patients, Medicare, Medicaid, or private insurance providers. In fact, licensing CEPs will allow these professionals to continue to provide low-cost, evidence-based therapeutic exercise to patients.

Licensure Efforts in Other States

- The national professional organization, CEPA (Clinical Exercise Physiologist Association), has deemed licensure of the CEP as a top professional priority.
- Several states (MN, MA, UT, NC) currently have licensure bills pending. Legislation in other states is in development (ND, IA, MT, IL, MD).
- Louisiana currently has CEP licensure.

About Chronic Cardiovascular Disease

Impact of Cardiac Disease

Cardiovascular disease (CVD) is the **leading cause of death in the US and Wisconsin**, accounting for 1 in 5 deaths in the US. Patients living with CVD are at risk for **serious but preventable** complications from the disease. Coronary artery disease (CAD), the most common form of CVD, caused 10,794 deaths in Wisconsin in 2009.

CVD places a large economic burden on the US and Wisconsin.

The total annual cost of CAD alone to the US was approximately \$130 billion in 2003 and will cost an estimated \$451.6 billion in 2007. In 2007, there were more than 87,000 admissions for CVD in Wisconsin, accounting for \$2.8 billion in hospital expenditures.

Importance of Cardiac Rehabilitation

Cardiac Rehabilitation is prescribed for patients with a recent heart attack, bypass surgery, angioplasty or stent insertion, valve repair or replacement, heart transplant, angina (heart pain), peripheral artery disease, and heart failure.

Benefits of Cardiac Rehabilitation

- Reduced 60-day re-admit rates: 6.7% for CR patient vs 23% for non-CR patient.
- Reduced cardiac mortality by 25%
- Lower mean patient cost (\$8800) and decreased utilization of services for cardiac rehab patient.
- Low cardiovascular fitness level is an independent risk factor for all-cause and cardiovascular mortality. Exercise capacity is inversely associated with health care costs.

For More Information

Lisa Wenzel, MS
Meriter Wellness Center
Madison, WI
608.417.6102
lwenzel@meriter.com

Cindy Ostrem, MS
Vernon Memorial Healthcare
Viroqua, WI
608.637.4295
costrem@vmh.org

Bonnie Anderson, MS
Vernon Memorial Healthcare
Viroqua, WI
608.637.4295
banderson@vmh.org

Heather Grant, MS
Nicole Meyer, MS
University of Wisconsin Hospital & Clinics
Preventive Cardiology
Madison, WI
608.265.8388
hgrant2@uwhealth.org
nmeyer@uwhealth.org



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3092/P1
MED:.....

In 9-23-13

Wanted by Wednesday 9-25 pm WJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

Gen

1 AN ACT ...; relating to: creation of a clinical exercise physiology affiliated
2 credentialing board, licensure of clinical exercise physiologists, granting
3 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 15.085 (1m) (b) of the statutes is amended to read:
5 15.085 (1m) (b) The public members of the podiatry affiliated credentialing
6 board or, occupational therapists affiliated credentialing board, clinical exercise
7 physiology affiliated credentialing board shall not be engaged in any profession or
8 occupation concerned with the delivery of physical or mental health care.

Use A.R. A

****NOTE: For this draft, I provided that the board must have one public member (see SECTION 2). I therefore amended this provision, which governs public members of various health care-related boards. If you decide not to include any public members on the board or would not like the public member(s) to be subject to this provision, let me know.

create A.R. A

1 SECTION 2. 15.406 (7) of the statutes is created to read:

2 15.406 (7) CLINICAL EXERCISE PHYSIOLOGY AFFILIATED CREDENTIALING BOARD.

3 There is created in the department of safety and professional services, attached to
4 the medical examining board, a clinical exercise physiology affiliated credentialing
5 board. The affiliated credentialing board shall consist of the following 5 members
6 appointed for 4-year terms:

- 7 (a) Three clinical exercise physiologists licensed under subch. VIII of ch. 448.
- 8 (b) One physician.
- 9 (c) One public member.

****NOTE: To administer the licensure of CEPs, I created ^{the} (a) Clinical Exercise Physiology Affiliated Credentialing Board, attached to the Medical Examining Board, with five members as in the Utah bill. Please let me know what changes you would like regarding the composition of the board, or let me know if you would like to take a different approach regarding the Board such as, for example, having an existing board regulate CEPs. Note that affiliated credentialing boards are subject to s. 15.085, stats. ^{and must, for example,}

submit proposed rules to the boards to which they are attached

10 SECTION 3. 146.81 (1) (eu) of the statutes is created to read:

11 146.81 (1) (eu) A clinical exercise physiologist licensed under subch. VIII of ch.
12 448.

****NOTE: This provision adds CEPs to the list of health care providers for purposes of Wisconsin's law relating to confidentiality of and access to medical records.

13 SECTION 4. 146.997 (1) (d) 4. of the statutes is amended to read:

14 146.997 (1) (d) 4. A physician, podiatrist, perfusionist, physical therapist, or
15 physical therapist assistant, or clinical exercise physiologist licensed under ch. 448.

History: 1999 a. 176, 186; 2001 a. 38, 70, 74, 89, 105; 2003 a. 33; 2005 a. 22; 2007 a. 20 s. 9121 (6) (a); 2007 a. 130; 2009 a. 165, 355.

****NOTE: This provision adds CEPs to the list of providers in the Health Care Workers Whistleblowers Protection law.

16 SECTION 5. 155.01 (7) of the statutes is amended to read:

1 155.01 (7) “Health care provider” means a nurse licensed or permitted under
2 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
3 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
4 therapist assistant, occupational therapist, ~~or~~ occupational therapy assistant, or
5 clinical exercise physiologist licensed under ch. 448, a person practicing Christian
6 Science treatment, an optometrist licensed under ch. 449, a psychologist licensed
7 under ch. 455, a partnership thereof, a corporation or limited liability company
8 thereof that provides health care services, a cooperative health care association
9 organized under s. 185.981 that directly provides services through salaried
10 employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a).

History: 1989 a. 200; 1991 a. 281; 1993 a. 27, 105, 112, 490; 1995 a. 27 ss. 4395, 9126 (19); 1997 a. 35, 67; 1999 a. 9, 180; 2001 a. 70, 89, 105; 2005 a. 22; 2007 a. 20 s. 9121 (6) (a); 2009 a. 28, 165.

****NOTE: This provision adds CEPs to the list of providers for purposes of Wisconsin’s Power of Attorney for Health Care law. The law, for example, prohibits an individual’s health care provider from serving as the individual’s health care agent and allows a health care provider to witness the designation of a health care agent and includes other provisions.

11 **SECTION 6.** 252.14 (1) (ar) 4s. of the statutes is created to read:

12 252.14 (1) (ar) 4s. A clinical exercise physiologist licensed under subch. VIII of
13 ch. 448.

****NOTE: This provision adds CEPs to a list of health care providers for purposes of a law prohibiting disparate treatment of individuals who have tested positive for the HIV virus. ✓

14 **SECTION 7.** 440.03 (13) (b) 19c. of the statutes is created to read:

15 440.03 (13) (b) 19c. Clinical exercise physiologist.

****NOTE: I added CEPs here for purposes of a provision that applies to most other credentials allowing DSPS to conduct investigations of individuals to check for criminal records in accordance with its rules.

16 **SECTION 8.** 440.08 (2) (a) 24am. of the statutes is created to read:

17 440.08 (2) (a) 24am. Clinical exercise physiologist: January 1 of each
18 odd-numbered year.

****NOTE: Most credentials under DSPS and its boards are renewable on a two-year cycle with fixed renewal dates. I arbitrarily chose a renewal date of January 1 of the odd-numbered year, but let me know if you would like something else. You may, for instance, wish to use the same date as is used for some related profession.

1 SECTION 9. 448.03 (2) (a) of the statutes is amended to read:

2 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
3 permit, registration, certificate or certification granted to practice clinical exercise
4 physiology under subch. VIII, to practice midwifery under subch. XIII of ch. 440, to
5 practice professional or practical nursing or nurse-midwifery under ch. 441, to
6 practice chiropractic under ch. 446, to practice dentistry or dental hygiene under ch.
7 447, to practice optometry under ch. 449, to practice acupuncture under ch. 451 or
8 under any other statutory provision, or as otherwise provided by statute.

History: 1975 c. 383, 421; 1977 c. 164; 1979 c. 317; 1985 a. 29; 1987 a. 40, 399; 1989 a. 31, 229; 1991 a. 23; 1993 a. 105, 107, 490; 1995 a. 27, 201; 1997 a. 67, 175, 311; 1999 a. 32, 180; 2001 a. 89; 2005 a. 96, 292; 2007 a. 97; 2009 a. 42, 282; 2011 a. 160, 161.

****NOTE: This provision simply provides that CEPs are not required to be licensed by the Medical Examining Board on the basis of the duties they perform.

9 SECTION 10. 448.970 of the statutes is renumbered 448.9695.

10 SECTION 11. Subchapter VIII of chapter 448 [precedes 448.971] of the statutes
11 is created to read:

12 CHAPTER 448

13 SUBCHAPTER VIII

14 CLINICAL EXERCISE PHYSIOLOGY

15 AFFILIATED CREDENTIALING BOARD

16 448.971 Definitions. In this subchapter:

17 (1) "Board" means the clinical exercise physiology affiliated credentialing
18 board. *holds a who holds a*

19 (2) "Clinical exercise physiologist" means an individual licensed under s.
20 448.973 to practice clinical exercise physiology *practiced by the board*

21 (3) "Clinical exercise physiology" means doing all of the following:
to any

1 (a) Administering clinical exercise tests to patients who have cardiovascular,
2 pulmonary, or metabolic disease.

3 (b) Developing and implementing exercise training protocols and programs for
4 patients who have cardiovascular, pulmonary, or metabolic disease.

5 (c) Providing patients with education and instruction based upon clinical
6 exercise test outcomes and exercise training protocols and programs.

7 (d) Upon referral by a physician, prescribing patients with exercise as a
8 therapeutic tool to prevent cardiovascular, pulmonary, or metabolic disease.

****NOTE: I crafted this definition of clinical exercise physiology based on language in the Utah bill. Please let me know if you would like changes or a different definition altogether.

9 **448.972 Use of title.** No person may do any of the following unless he or she
10 is licensed by the board under s. 448.973:

11 (1) Hold himself or herself ^{oneself} out as a clinical exercise physiologist.

12 (2) Use in connection with his or her name the title "clinical exercise
13 physiologist"; the words or letters "C.E.P." or "L.C.E.P."; or any other words, letters, *
14 abbreviation, or insignia indicating that he or she is a clinical exercise physiologist
15 or a licensed clinical exercise physiologist.

****NOTE: This provision simply prohibits persons not licensed as CEPs from using the CEP title or from holding themselves out as such. If desired, I could also add language prohibiting persons not so licensed from engaging in the practice of clinical exercise physiology. If you would like such language added to the bill, then it will be especially important to ensure that we sufficiently describe the practice of clinical exercise physiology and identify all necessary exceptions to ensure that, for example, other licensed professionals are not required to be licensed as CEPs. See, e.g., ss. 448.62, 448.962 (1), and 455.02 (2m), stats., for examples of provisions providing for such exceptions.

16 **448.973 License.** (1) INITIAL LICENSE. Any person who satisfies all of the
17 following requirements may apply to the department for initial licensure by the
18 board as a clinical exercise physiologist:

The board shall grant a license in clinical exercise physiology to [] to practice

1 (a) The person submits an application on a form provided by the department
2 and pays the initial credential fee determined by the department under s. 440.03 (9)

3 (a).

4 (b) The person is at least 18 years of age.

5 (c) The person possesses a master's degree in exercise physiology or a related
6 field, as determined by the board.

7 (d) The person provides proof of completing at least 600 hours of qualifying
8 clinical experience, as determined by the board.

9 (e) The person provides evidence of certification as a clinical exercise specialist
10 or as a registered clinical exercise physiologist by the American College of Sports
11 Medicine or a successor organization.

12 (f) The person provides evidence of completing complete advanced cardiac life
13 support or basic life support training.

14 (g) Subject to ss. 111.321, 111.322, and 111.335, the person does not have an
15 arrest or conviction record.

16 (2) LICENSE RENEWAL. (a) On or before the applicable renewal date specified
17 under s. 440.08 (2) (a), a person issued a license under sub. (1) shall submit all of the
18 following to the board on a form furnished by the ^{department} board with the applicable renewal
19 fee determined by the department under s. 440.03 (9) (a):

20 1. A statement giving his or her name and residence.

21 2. Proof of having completed any examination or continuing education
22 requirements that the board requires by rule.

23 3. Any other information that the board requires by rule.

24 (b) The board shall grant to a person who satisfies the requirements under par.
25 (a) the renewal of his or her clinical exercise physiologist license.

1 **448.974 Rules.** (1) The board shall promulgate rules to implement this
2 subchapter, including all of the following:

3 (a) Rules establishing licensure requirements under s. 448.973 (1) (c) and (d). ✓

4 (b) Rules defining a scope of practice for clinical exercise physiologists.

5 (c) Rules defining what constitutes unprofessional conduct for clinical exercise
6 physiologists, for purposes of s. 448.975 (2) (d). ✓

7 (2) The board may promulgate rules establishing requirements for license
8 renewal under s. 448.973 (2) (a) 2. ✓ and 3. ✓

 ****NOTE: This provision allows, but does not require, the board to promulgate rules
specifying renewal requirements for licensees.

9 **448.975 Discipline.** (1) Subject to the rules promulgated under s. 440.03 (1), ✓
10 the board may conduct investigations and hearings to determine whether a person
11 has violated this subchapter or a rule promulgated under this subchapter.

12 (2) Subject to the rules promulgated under s. 440.03 (1), if a person who applies
13 for or holds a license issued under s. 448.973 does any of the following, the board may
14 reprimand the person or deny, limit, suspend, or revoke the person's license:

15 (a) Makes a material misstatement in an application for a license or an
16 application for renewal of a license under s. 448.973. ✓

17 (b) Violates any law of this state or federal law that substantially relates to the
18 practice of clinical exercise physiology, violates this subchapter, or violates a rule
19 promulgated under this chapter.

20 (c) Advertises, practices, or attempts to practice under another person's name.

21 (d) Engages in unprofessional conduct.

1 (e) Subject to ss. 111.321, 111.322, and 111.335, is arrested for or convicted of
2 an offense, the circumstances of which substantially relate to the practice of clinical
3 exercise physiology.

****NOTE: This provision related to discipline is largely modeled after s. 462.07,
stats. Please let me know what changes you would like to this provision.

4 **448.976 Penalties.** Any person who violates this subchapter is subject to a
5 fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

****NOTE: This general penalty provision applies to violations of any provision in
the bill. Let me know if you would to modify or eliminate this provision, or modify it to
* only apply to certain violations.

6 **SECTION 12.** 450.10 (3) (a) 5. of the statutes is amended to read:

7 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
8 therapist, physical therapist assistant, occupational therapist, or occupational
9 therapy assistant, or clinical exercise physiologist licensed under ch. 448.

History: 1985 a. 146; 1987 a. 264, 399; 1989 a. 31, 316; 1991 a. 39, 160; 1993 a. 222, 443; 1995 a. 27 s. 9145 (1); 1995 a. 448; 1997 a. 27, 67, 75, 175; 1999 a. 9, 32, 180;
2001 a. 70, 80; 2009 a. 280.

****NOTE: This provision adds CEPs to a list of health care providers for purposes
of a law protecting health care providers who report violations relating to the pharmacy
practice act and the Uniform Controlled Substances Act.

10 **SECTION 13. Nonstatutory provisions.**

11 (1) BOARD; INITIAL TERMS. Notwithstanding the length of terms specified for the
12 members of the clinical exercise physiology affiliated credentialing board under
13 section 15.406 (7) of the statutes, as created by this act, 2 of the initial members shall
14 be appointed for terms expiring on July 1, 2015, 2 of the initial members shall be
15 appointed for terms expiring on July 1, 2016, and the remaining initial member shall
16 be appointed for a term expiring on July 1, 2017.

****NOTE: Boards generally have members serving staggered terms so that the
terms of all members do not expire at the same time. You may wish or need to adjust the
dates here based on the composition of the Board and the anticipated date of enactment.
I can also modify this provision to provide for the appointments of specific spots on the
board.

1 (2) BOARD; INITIAL CLINICAL EXERCISE PHYSIOLOGIST MEMBERS. Notwithstanding
2 section 15.406 (7) (a) of the statutes, as created by this act, the initial members
3 appointed to the clinical exercise physiology affiliated credentialing board under
4 section 15.406 (7) (a) of the statutes, as created by this act, may be persons who are
5 engaged in the practice of clinical exercise physiology, as defined in section 448.971
6 (3) of the statutes, as created by this act, but who are not licensed under section
7 448.973 of the statutes, as created by this act.

 ****NOTE: Because licensure of CEPs is new, this provision allows the initial CEP
members of the Board to be persons who are not yet licensed.

8 **SECTION 14. Effective dates.** This act takes effect on the 1st day of the 12th
9 month beginning after publication, except as follows:

10 (1) The treatment of section 448.972 of the statutes takes effect on the first day
11 of the 24th month beginning after the effective date of this subsection.

 ****NOTE: This provision delays the provision prohibiting use of the CEP title for
two years to give individuals time to become licensed. Let me know if you want to adjust
this timeline or handle this differently.

12

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3092/P1dn

MED:.....

WJ

Date

In drafting this P1 version of this draft, I relied on the provided writeup and bill from Utah, and also on 2009 Wisconsin Act 106, which is the most recent enactment that created a new board in DSPS and licensure requirement. Please review the draft, including the embedded notes, and also note the following:

1. I amended numerous provisions throughout the statutes to add CEPs to lists of health care providers for various purposes. These changes are described in embedded notes below those provisions. Please let me know if you have any questions or would like any changes regarding these provisions.

2. In bills establishing new licensure requirements, it is often necessary to add transitional licensure provisions (AKA grandfathering provisions) to the bill to allow individuals who would not otherwise satisfy the requirements for licensure created in the bill to obtain a license and continue to practice. Section 10 of the Utah bill provided contains such a provision, which applies for one year after regulations are implemented. Please let me know if you'd like me to include such a provision or if currently practicing individuals will still have to satisfy the same licensure requirements as those in the future.

by your office

3. 2009 Wisconsin Act 106 gave DSPS the authority to hire an additional 0.5 PR position to implement the licensure requirements for radiographers and X-ray permit holders. Let me know if you would like me to add a position authorization to the bill.

4. In the draft, I provided that the Board must promulgate various rules. Note that the rulemaking process, as provided in chapter 227, stats., and subject to s. 15.085 (5) (b), stats., can take a long time and it may therefore be necessary to delay the bill's effective dates until rules are promulgated. I recommend consulting with DSPS on how long it might take the board to promulgate rules. I can also, if desired, include provisions for initial rules exempting the Board from certain rulemaking requirements, creating certain rulemaking time limits, or allowing the Board to promulgate rules initially as emergency rules. If you would like, I can describe these options in further detail. For this draft, I simply included a general effective date of one year.

5. Subchapter XIX of chapter 180 contains a definition of health care professional that subjects those professionals to various provisions in that subchapter relating to service corporations. Let me know if you would like to add CEPs to this definition for purposes of these provisions.

Michael Duchek
Legislative Attorney
Phone: (608) 266-0130
E-mail: michael.duchek@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3092/P1dn
MED:wlj:jf

September 25, 2013

In drafting this /P1 version of this draft, I relied on the provided write-up and bill from Utah, and on 2009 Wisconsin Act 106, which is the most recent enactment that created a board in DSPS and a licensure requirement. Please review the draft, including the embedded notes, and note the following:

1. I amended numerous provisions throughout the statutes to add CEPs to lists of health care providers for various purposes. These changes are described in embedded notes below those provisions. Please let me know if you have any questions or would like any changes regarding these provisions.
2. In bills establishing new licensure requirements, it is often necessary to add transitional licensure provisions (a.k.a. grandfathering provisions) to the bill to allow individuals who would not otherwise satisfy the requirements for licensure created in the bill to obtain a license and continue to practice. Section 10 of the Utah bill provided by your office contains such a provision, which applies for one year after regulations are implemented. Please let me know if you'd like me to include such a provision or if currently practicing individuals will still have to satisfy the same licensure requirements as those in the future.
3. 2009 Wisconsin Act 106 gave DSPS the authority to hire an additional 0.5 PR position to implement the licensure requirements for radiographers and X-ray permit holders. Let me know if you would like me to add a position authorization to the bill.
4. In the draft, I provided that the board must promulgate various rules. Note that the rule-making process, as provided in ch. 227, stats., and subject to s. 15.085 (5) (b), stats., can take a long time and it may therefore be necessary to delay the bill's effective dates until rules are promulgated. I recommend consulting with DSPS on how long it might take the board to promulgate rules. I can also, if desired, include provisions for initial rules exempting the board from certain rule-making requirements, creating certain rule-making time limits, or allowing the board to promulgate rules initially as emergency rules. If you would like, I can describe these options in further detail. For this draft, I simply included a general effective date of one year.
5. Subchapter XIX of ch. 180, stats., contains a definition of health care professional that subjects those professionals to various provisions in that subchapter relating to service corporations. Let me know if you would like to add CEPs to this definition for purposes of these provisions.

Michael Duchek
Legislative Attorney
Phone: (608) 266-0130
E-mail: michael.duchek@legis.wisconsin.gov

MODEL CLINICAL EXERCISE PHYSIOLOGIST PRACTICE ACT

(excerpted from NCBDE's Model Diabetes Educator Licensure Act, July 2012)

*An ACT to create Licensure Requirements
for the Practice of Clinical Exercise Physiology (CEP).
February 12, 2013*

Be it enacted by the People of the State of (State name), represented in the (State Legislative House):

Section 1. Short Title.

This Act may be cited as the Clinical Exercise Physiologist Licensure Act.

Section 2. Declaration of Public Policy.

The practice of Clinical Exercise Physiology in the State of (State name) is provided by health care professionals who have fulfilled educational, experiential and credentialing requirements as defined by Clinical Exercise Physiology Association (CEPA), the American College of Sports Medicine (ACSM), and the Committee on Accreditation for the Exercise Sciences (CoAES). The CEPA is the national professional society for CEPs and thus sets the definition and scope of practice for clinical exercise physiologists (CEPs). The ACSM is the credentialing body for the certification exams for CEPs. The CoAES establishes the standards and guidelines for academic programs in clinical exercise physiology. The increasing population of persons with chronic diseases and conditions who could benefit from clinical exercise testing, assessment and exercise training services requires that the provision of such services be regulated to ensure the provision of safe, effective and appropriate patient care services.

The people of (State name) deserve the best care available and will benefit from the assurance of initial and ongoing professional competence of CEPs practicing in this State. The services of licensed CEPs will improve and enhance the lives of individuals with chronic diseases and conditions for which exercise training can provide therapeutic benefit, by enabling them to maintain productive lives. Unregulated provision of care does not adequately meet the needs or serve the interests of the residents of this State. In keeping with State requirements imposed on similar healthcare disciplines, licensure of CEPs will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels. This Act shall be liberally construed to best carry out these subjects and purposes.

Section 3. Definitions.

As used in this Act:

(1) "Clinical Exercise Physiologist" means a person who is duly licensed to practice clinical exercise physiology in the State. The clinical exercise physiologist administers clinical exercise tests; develops and implements exercise training protocols and programs; and provides education and instruction based upon test outcomes and delineated programs. The clinical exercise physiologist is skilled in risk factor stratification and modification within preventive, clinical, diagnostic, and rehabilitative settings catering to individuals with cardiovascular, pulmonary, and metabolic disease. The clinical exercise physiologist prescribes exercise as a therapeutic tool to maximize health as part of the primary, secondary and tertiary prevention of these chronic diseases; and serves as a contributing member of a multi-disciplinary team in the continuance of care of patients with oncologic, immunologic, hematologic, chronic orthopedic, musculoskeletal, and neuromuscular disorders

(2) "Exercise Protocols and Programs", the intensity, duration, frequency, volume, and mode of activity to improve and/or maintain an individual's functional capacity.

(3) "Board", the licensure board for CEPs, established under this Act.

Section 4. Exceptions.

This Act shall not be construed to prohibit:

(a) A person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;

Section 5. Board of Licensure for CEPs.

(a) There is established a Board of Licensure for CEPs, which shall consist of (state number) voting members to be appointed by the Director. At least (state number) members shall be practicing licensed CEPs. At least (state number) members shall be a member of the public.

(b) Each member of the Board shall serve a term of (state term), except that of the initial appointments to the Board: two members shall be appointed for one year, two members shall be appointed for (state term) and two members shall be appointed for (state term). Each member shall hold office and execute his or her Board responsibilities until the qualification and appointment of his or her successor. No member of the Board shall serve more than (state terms), whichever is greater.

(c) The Board shall (state term) elect a chairperson and vice chairperson who shall be licensed under this Act.

(d) Members of the Board shall receive as compensation a reasonable sum as determined by the Director for each day actually engaged in the duties of the office and shall be reimbursed for reasonable expenses incurred in performing the duties of the office.

(e) A quorum of the Board shall consist of a majority of Board members currently appointed.

(f) The Director may terminate the appointment of any member for cause which, in the opinion of the Director, reasonably justifies termination, which may include, but is not limited to, a Board member who does not attend (state number) consecutive meetings.

(g) Membership of the Board should reasonably reflect representation from the geographic areas in this State.

Section 6. Board Immunity.

Members of the Board shall be immune from suit in any action based upon any disciplinary proceeding or other activities performed in good faith as members of the Board.

Section 7. Application for Original License.

An application for an original license shall be made to [Department] in writing on a form prescribed by [Department] and shall be accompanied by the required fee, which shall not be refundable. An application shall require information that in the judgment of the Department will enable the Department to pass judgment on the qualifications of the applicant for a license.

Section 8. Qualifications for Licensure as a Clinical Exercise Physiologist.

(a) To qualify for a license to practice as a clinical exercise physiologist, a person shall:

(1) hold a master's degree or higher in exercise physiology, exercise science, or kinesiology from an accredited college or university approved by the board, or from an accredited Exercise Physiology educational program, and obtain a minimum of 600 hours of clinical experience as a clinical exercise physiologist,

(2) or have graduated from an educational program in clinical exercise physiology, exercise science, kinesiology, or applied exercise physiology chartered in a sovereign state outside the United States and have furnished to the board such evidence as it may require: (1) that the applicant's education is substantially the equivalent of that of graduates of approved programs in the United States, and (2) that the applicant has sufficient qualifications, including the proficiency in the English language, to practice clinical exercise physiology,

(3) and passed the American College of Sports Medicine's Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board.

Section 9. Protection of Title.

(a) No person shall hold himself out as a clinical exercise physiologist or as being able to practice clinical exercise physiology or to render clinical exercise physiology services in this commonwealth unless he appears before the board and is subsequently licensed by the board. No person not so licensed may use in

connection with his name the words or letters, "C.E.P", "L.C.E.P.", or any other words, letters, abbreviation, or insignia indicating that he is a clinical exercise physiologist or a Licensed Clinical Exercise Physiologist.

Section 10. Transition Period.

(a) A license as a clinical exercise physiologist may be issued without examination to an applicant who does not meet the educational requirements of section 8, if the applicant has a bachelor's degree in exercise science, exercise physiology, or kinesiology AND provides to the board's satisfaction that THE APPLICANT has been in paid professional practice in the field of clinical exercise physiology for five years or 10,000 hours out of the last ten years preceding the effective date of the regulations implementing this act OR has been in paid professional practice in the field of clinical exercise physiology for a minimum of one year or 2,000 hours out of the last five years preceding the effective date of the regulations PLUS has passed the American College of Sports Medicine's Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board..

(b) The provisions of this section shall expire one year following the effective date of the IMPLEMENTING REGULATIONS.

Section 11. Enforcement.

The licensure requirements of Sections 4, 9 and 11 shall not be enforced until 24 months after the effective date this Act.

Section 12. Renewal; Restoration; Military Service.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule of the Department. The Board shall establish re-examination and/or continuing education requirements for the renewal of a license.

(b) A person who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by:

(1) Making application to the Department;

(2) Filing proof acceptable to the Department of his or her fitness to have his or her license restored including, but not limited to, sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department; and

(3) Paying the required restoration fee. If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Board shall determine, by an evaluation program established by rule, his or her fitness to resume active status and may require the person to complete a period of evaluated clinical experience and may require successful completion of an examination.

(c) A person whose license expired while he or she was:

(1) In federal service on active duty within the armed forces of the United States or with the State militia called into service or training; or

(2) In training or education under the supervision of the United States preliminary to induction into military service;

may have his or her license renewed or restored without paying a lapsed renewal fee if, within two years after termination from the service, training or education except under conditions other than honorable, he or she furnished the Department with satisfactory evidence that he or she has been so engaged and that his or her service, training or education has been terminated.

Section 13. Elective Inactive Status.

(a) A person who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

(b) A person requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license as provided in Section 13 of this Act.

(c) A CEP whose license is on inactive status shall not provide CEP services in this State.

Section 14. Fees.

(a) The Department shall provide, by rule, a schedule of fees to be paid for licenses by all applicants. All fees are not refundable.

(b) The fees for the administration and enforcement of this Act including, but not limited to, original licensure renewal and restoration shall be set by rule by the Department.

(c) All fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

Section 15. Roster of Licensees.

The Department shall maintain a current roster of the names and addresses of all licensees and all persons whose licenses have been suspended or revoked within the past five years. This roster shall be available upon written request and payment of the required fee.

Section 16. Practice by Corporations.

Nothing in this Act shall restrict licensees from forming professional service corporations under the provisions of the Professional Service Corporation Act. No person may provide CEP services without a license in good standing.

Section 17. Grounds for discipline.

(a) The Department may refuse to issue or renew a license, may revoke or suspend a license, or may suspend, place on probation, censure or reprimand a licensee for one or any combination of the following:

- (1) Making a material misstatement in furnishing information to the Department or the Board.
- (2) Violations of or negligent or intentional disregard of this Act or its Rules.
- (3) Conviction of any crime that under the laws of the United States or of a state or territory of the United States is a felony or a misdemeanor, an essential element of which is dishonesty, or of a crime that is directly related to the practice of the profession.
- (4) Making a misrepresentation for the purpose of obtaining a license.
- (5) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.
- (6) Gross negligence under this Act.
- (7) Aiding or assisting another person in violating a provision of this Act or its Rules.
- (8) Failing to provide information within 60 days in response to a written request made by the Department.
- (9) Engaging in dishonorable, unethical or unprofessional conduct or conduct of a character likely to deceive, defraud or harm the public.
- (10) Habitual intoxication or addiction to the use of drugs.
- (11) Discipline by another state or territory of the United States, the federal government or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to one set forth in this Section.
- (12) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership or association a fee, commission, rebate or other form of compensation for professional services not actually or personally rendered.
- (13) A finding by the Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.
- (14) Abandonment of a patient or client.
- (15) Willfully making or filing false records or reports in his or her practice including, but not limited to, false records filed with State agencies or departments.
- (16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.
- (17) Solicitation of professional services using false or misleading advertising.
- (18) Failing to maintain eligibility requirements for licensure.

(b) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic

suspension. The suspension will end only upon:

(1) A finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient; and

(2) The recommendation of the Board that the licensee be allowed to resume his or her practice.

(c) In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physician shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license, or denial of his or her license, until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

(d) If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling or treatment by physicians approved or designated by the Department or Board, as a condition, term or restriction for continued, reinstated or renewed licensure to practice; or, in lieu of care, counseling or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions or restrictions and who fails to comply with such terms, conditions or restrictions, shall be referred to the Director for a determination

as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

(e) In instances in which the Director immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

(f) An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

Section 18. Restoration of Suspended or Revoked License.

At any time after the suspension or revocation of any license, the Department may restore the license to the accused person upon the written recommendation of the Board unless, after an investigation and a hearing, the Board determines that restoration is not in the public interest.

Section 19. Surrender of License.

Upon the revocation or suspension of a license, the licensee shall immediately surrender the license to the Department, and if the licensee fails to do so, the Department shall have the right to seize the license.

Section 20. Temporary Suspension of a License.

The Director may temporarily suspend the license of a diabetes educator provided that the Director finds that evidence in his or her possession indicates that a licensee's continuation in practice would constitute an imminent danger to the public. If the Director temporarily suspends a license, a hearing by the Board must be held within 30 days after the suspension.

Section 21. Penalties.

A person who is found to have violated a provision of this Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class Four felony for a second or subsequent offense.

Section 22. (State name) Administrative Procedure Act.

The (State name) Administrative Procedure Act is hereby expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act.

This Act takes effect January 1, (year law effective).

February 12, 2013: Document approved by CEPA Executive Committee

Duchek, Michael

From: Houdek, Nathan
Sent: Wednesday, December 18, 2013 11:19 AM
To: Duchek, Michael
Subject: CEP licensure bill LRB 3092 revisions
Attachments: 13-3092_P1.pdf; 13-3092_P1dn.pdf; MODEL CEP PRACTICE ACT_12Feb13[1].docx

Hi Michael –

Thanks for your help drafting the Clinical Exercise Physiologist licensure bill (LRB 3092/P1). Based on conversations we have had with stakeholders, we would like to request the following changes. Many of these changes are based on the 'Model CEP Practice Act' (attached). I realize that some of the references in the model act might not be appropriate for Wisconsin state statutes, so feel free to share any feedback on these requests and potential concerns you might have with using language from the model act.

Requested changes to LRB 3092/P1:

Replace language on Page 5, lines 1 thru 11, with language from Section 3 – Definitions – from the model act.

Replace language on Page 6, lines 1 thru 14, with language from Section 8 – Qualifications for Licensure – from the model act.

Delete lines 15 and 16 on Page 6.

Replace language on Page 6, lines 19 thru 25, and Page 7, lines 1 thru 3, with language from Sections 12 – Renewal; Restoration; Military Service – and Section 13 – Elective Inactive Status – from the model act.

Replace language on Page 7, lines 12 thru 23, and Page 8, lines 1 thru 6, with language from Section 17 – Grounds for Discipline – from the model act.

Also, insert Sections 18, 19 and 20 from model act.

Regarding your questions in the Drafter's Note on September 25:

For question 2 about the grandfather language, please see Section 10 – Transition Period – in the model act. Does that cover the issue of grandfathering?

For question 3, at this time we will not include additional position authority for DSPS.

For question 4, can you indicate in the draft that the board would be allowed to promulgate rules initially as emergency rules? Does this address the time concerns for promulgating the regular rules?

For question 5, I don't know the answer to that. From your perspective, does it make sense to add CEPs to the chpt. 180, subchapter XIX definition?

Additionally, the stakeholders with whom we have been discussing this bill have some questions that I am hoping you can help me answer.

Question 1) Does it make sense for the CEP affiliated credentialing board to be attached to the Medical Examining Board (as currently drafted), or would it make more sense to have a separate board, not attached to any existing boards?

Essentially, what are the pros and cons of each option?

Question 2) Regarding your note after Section 9 – "This provisions simply provides that CEPs are not required to be licensed by the Medical Examining Board on the basis of the duties they perform." This is confusing since the purpose of the legislation is to allow for state licensure of CEPs. Can you clarify that note?

Please let me know if you have any questions or need clarification on any of these requests and questions.

Thanks again.

- Nathan

Nathan D. Houdek
Office of Senator Jennifer Shilling
20 South, State Capitol
Phone: 608.266.5490
E-mail: nathan.houdek@legis.wisconsin.gov

MODEL CLINICAL EXERCISE PHYSIOLOGIST PRACTICE ACT

(excerpted from NCBDE's Model Diabetes Educator Licensure Act, July 2012)

*An ACT to create Licensure Requirements
for the Practice of Clinical Exercise Physiology (CEP).
February 12, 2013*

Be it enacted by the People of the State of (State name), represented in the (State Legislative House):

Section 1. Short Title.

This Act may be cited as the Clinical Exercise Physiologist Licensure Act.

Section 2. Declaration of Public Policy.

The practice of Clinical Exercise Physiology in the State of (State name) is provided by health care professionals who have fulfilled educational, experiential and credentialing requirements as defined by Clinical Exercise Physiology Association (CEPA), the American College of Sports Medicine (ACSM), and the Committee on Accreditation for the Exercise Sciences (CoAES). The CEPA is the national professional society for CEPs and thus sets the definition and scope of practice for clinical exercise physiologists (CEPs). The ACSM is the credentialing body for the certification exams for CEPs. The CoAES establishes the standards and guidelines for academic programs in clinical exercise physiology. The increasing population of persons with chronic diseases and conditions who could benefit from clinical exercise testing, assessment and exercise training services requires that the provision of such services be regulated to ensure the provision of safe, effective and appropriate patient care services.

The people of (State name) deserve the best care available and will benefit from the assurance of initial and ongoing professional competence of CEPs practicing in this State. The services of licensed CEPs will improve and enhance the lives of individuals with chronic diseases and conditions for which exercise training can provide therapeutic benefit, by enabling them to maintain productive lives. Unregulated provision of care does not adequately meet the needs or serve the interests of the residents of this State. In keeping with State requirements imposed on similar healthcare disciplines, licensure of CEPs will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels. This Act shall be liberally construed to best carry out these subjects and purposes.

Section 3. Definitions.

As used in this Act:

(1) "Clinical Exercise Physiologist" means a person who is duly licensed to practice clinical exercise physiology in the State. The clinical exercise physiologist administers clinical exercise tests; develops and implements exercise training protocols and programs; and provides education and instruction based upon test outcomes and delineated programs. The clinical exercise physiologist is skilled in risk factor stratification and modification within preventive, clinical, diagnostic, and rehabilitative settings catering to individuals with cardiovascular, pulmonary, and metabolic disease. The clinical exercise physiologist prescribes exercise as a therapeutic tool to maximize health as part of the primary, secondary and tertiary prevention of these chronic diseases; and serves as a contributing member of a multi-disciplinary team in the continuance of care of patients with oncologic, immunologic, hematologic, chronic orthopedic, musculoskeletal, and neuromuscular disorders

(2) "Exercise Protocols and Programs", the intensity, duration, frequency, volume, and mode of activity to improve and/or maintain an individual's functional capacity.

(3) "Board", the licensure board for CEPs, established under this Act.

Section 4. Exceptions.

This Act shall not be construed to prohibit:

(a) A person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;

Section 5. Board of Licensure for CEPs.

- (a) There is established a Board of Licensure for CEPs, which shall consist of (state number) voting members to be appointed by the Director. At least (state number) members shall be practicing licensed CEPs. At least (state number) members shall be a member of the public.
- (b) Each member of the Board shall serve a term of (state term), except that of the initial appointments to the Board: two members shall be appointed for one year, two members shall be appointed for (state term) and two members shall be appointed for (state term). Each member shall hold office and execute his or her Board responsibilities until the qualification and appointment of his or her successor. No member of the Board shall serve more than (state terms), whichever is greater.
- (c) The Board shall (state term) elect a chairperson and vice chairperson who shall be licensed under this Act.
- (d) Members of the Board shall receive as compensation a reasonable sum as determined by the Director for each day actually engaged in the duties of the office and shall be reimbursed for reasonable expenses incurred in performing the duties of the office.
- (e) A quorum of the Board shall consist of a majority of Board members currently appointed.
- (f) The Director may terminate the appointment of any member for cause which, in the opinion of the Director, reasonably justifies termination, which may include, but is not limited to, a Board member who does not attend (state number) consecutive meetings.
- (g) Membership of the Board should reasonably reflect representation from the geographic areas in this State.

Section 6. Board Immunity.

Members of the Board shall be immune from suit in any action based upon any disciplinary proceeding or other activities performed in good faith as members of the Board.

Section 7. Application for Original License.

An application for an original license shall be made to [Department] in writing on a form prescribed by [Department] and shall be accompanied by the required fee, which shall not be refundable. An application shall require information that in the judgment of the Department will enable the Department to pass judgment on the qualifications of the applicant for a license.

Section 8. Qualifications for Licensure as a Clinical Exercise Physiologist.

- (a) To qualify for a license to practice as a clinical exercise physiologist, a person shall:
- (1) hold a master's degree or higher in exercise physiology, exercise science, or kinesiology from an accredited college or university approved by the board, or from an accredited Exercise Physiology educational program, and obtain a minimum of 600 hours of clinical experience as a clinical exercise physiologist,
 - (2) or have graduated from an educational program in clinical exercise physiology, exercise science, kinesiology, or applied exercise physiology chartered in a sovereign state outside the United States and have furnished to the board such evidence as it may require: (1) that the applicant's education is substantially the equivalent of that of graduates of approved programs in the United States, and (2) that the applicant has sufficient qualifications, including the proficiency in the English language, to practice clinical exercise physiology,
 - (3) and passed the American College of Sports Medicine's Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board.

Section 9. Protection of Title.

(a) No person shall hold himself out as a clinical exercise physiologist or as being able to practice clinical exercise physiology or to render clinical exercise physiology services in this commonwealth unless he appears before the board and is subsequently licensed by the board. No person not so licensed may use in

connection with his name the words or letters, "C.E.P", "L.C.E.P.", or any other words, letters, abbreviation, or insignia indicating that he is a clinical exercise physiologist or a Licensed Clinical Exercise Physiologist.

Section 10. Transition Period.

(a) A license as a clinical exercise physiologist may be issued without examination to an applicant who does not meet the educational requirements of section 8, if the applicant has a bachelor's degree in exercise science, exercise physiology, or kinesiology AND provides to the board's satisfaction that THE APPLICANT has been in paid professional practice in the field of clinical exercise physiology for five years or 10,000 hours out of the last ten years preceding the effective date of the regulations implementing this act OR has been in paid professional practice in the field of clinical exercise physiology for a minimum of one year or 2,000 hours out of the last five years preceding the effective date of the regulations PLUS has passed the American College of Sports Medicine's Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board..

(b) The provisions of this section shall expire one year following the effective date of the IMPLEMENTING REGULATIONS.

Section 11. Enforcement.

The licensure requirements of Sections 4, 9 and 11 shall not be enforced until 24 months after the effective date this Act.

Section 12. Renewal; Restoration; Military Service.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule of the Department. The Board shall establish re-examination and/or continuing education requirements for the renewal of a license.

(b) A person who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by:

(1) Making application to the Department;

(2) Filing proof acceptable to the Department of his or her fitness to have his or her license restored including, but not limited to, sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department; and

(3) Paying the required restoration fee. If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Board shall determine, by an evaluation program established by rule, his or her fitness to resume active status and may require the person to complete a period of evaluated clinical experience and may require successful completion of an examination.

(c) A person whose license expired while he or she was:

(1) In federal service on active duty within the armed forces of the United States or with the State militia called into service or training; or

(2) In training or education under the supervision of the United States preliminary to induction into military service;

may have his or her license renewed or restored without paying a lapsed renewal fee if, within two years after termination from the service, training or education except under conditions other than honorable, he or she furnished the Department with satisfactory evidence that he or she has been so engaged and that his or her service, training or education has been terminated.

Section 13. Elective Inactive Status.

(a) A person who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

(b) A person requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license as provided in Section 13 of this Act.

(c) A CEP whose license is on inactive status shall not provide CEP services in this State.

Section 14. Fees.

- (a) The Department shall provide, by rule, a schedule of fees to be paid for licenses by all applicants. All fees are not refundable.
- (b) The fees for the administration and enforcement of this Act including, but not limited to, original licensure renewal and restoration shall be set by rule by the Department.
- (c) All fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

Section 15. Roster of Licensees.

The Department shall maintain a current roster of the names and addresses of all licensees and all persons whose licenses have been suspended or revoked within the past five years. This roster shall be available upon written request and payment of the required fee.

Section 16. Practice by Corporations.

Nothing in this Act shall restrict licensees from forming professional service corporations under the provisions of the Professional Service Corporation Act. No person may provide CEP services without a license in good standing.

Section 17. Grounds for discipline.

- (a) The Department may refuse to issue or renew a license, may revoke or suspend a license, or may suspend, place on probation, censure or reprimand a licensee for one or any combination of the following:
 - (1) Making a material misstatement in furnishing information to the Department or the Board.
 - (2) Violations of or negligent or intentional disregard of this Act or its Rules.
 - (3) Conviction of any crime that under the laws of the United States or of a state or territory of the United States is a felony or a misdemeanor, an essential element of which is dishonesty, or of a crime that is directly related to the practice of the profession.
 - (4) Making a misrepresentation for the purpose of obtaining a license.
 - (5) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.
 - (6) Gross negligence under this Act.
 - (7) Aiding or assisting another person in violating a provision of this Act or its Rules.
 - (8) Failing to provide information within 60 days in response to a written request made by the Department.
 - (9) Engaging in dishonorable, unethical or unprofessional conduct or conduct of a character likely to deceive, defraud or harm the public.
 - (10) Habitual intoxication or addiction to the use of drugs.
 - (11) Discipline by another state or territory of the United States, the federal government or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to one set forth in this Section.
 - (12) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership or association a fee, commission, rebate or other form of compensation for professional services not actually or personally rendered.
 - (13) A finding by the Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.
 - (14) Abandonment of a patient or client.
 - (15) Willfully making or filing false records or reports in his or her practice including, but not limited to, false records filed with State agencies or departments.
 - (16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.
 - (17) Solicitation of professional services using false or misleading advertising.
 - (18) Failing to maintain eligibility requirements for licensure.
- (b) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic

suspension. The suspension will end only upon:

- (1) A finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient; and
 - (2) The recommendation of the Board that the licensee be allowed to resume his or her practice.
- (c) In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physician shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license, or denial of his or her license, until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.
- (d) If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling or treatment by physicians approved or designated by the Department or Board, as a condition, term or restriction for continued, reinstated or renewed licensure to practice; or, in lieu of care, counseling or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions or restrictions and who fails to comply with such terms, conditions or restrictions, shall be referred to the Director for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.
- (e) In instances in which the Director immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.
- (f) An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

Section 18. Restoration of Suspended or Revoked License.

At any time after the suspension or revocation of any license, the Department may restore the license to the accused person upon the written recommendation of the Board unless, after an investigation and a hearing, the Board determines that restoration is not in the public interest.

Section 19. Surrender of License.

Upon the revocation or suspension of a license, the licensee shall immediately surrender the license to the Department, and if the licensee fails to do so, the Department shall have the right to seize the license.

Section 20. Temporary Suspension of a License.

The Director may temporarily suspend the license of a diabetes educator provided that the Director finds that evidence in his or her possession indicates that a licensee's continuation in practice would constitute an imminent danger to the public. If the Director temporarily suspends a license, a hearing by the Board must be held within 30 days after the suspension.

Section 21. Penalties.

A person who is found to have violated a provision of this Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class Four felony for a second or subsequent offense.

Section 22. (State name) Administrative Procedure Act.

The (State name) Administrative Procedure Act is hereby expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act.

This Act takes effect January 1, (year law effective).

February 12, 2013: Document approved by CEPA Executive Committee

Duchek, Michael

From: Duchek, Michael
Sent: Tuesday, January 14, 2014 9:24 AM
To: Houdek, Nathan
Subject: RE: CEP licensure bill LRB 3092 revisions
Attachments: 201401140918-1.pdf

Nathan,

Sounds good. Again, a lot of the provisions requested may be fine, but they might not be needed if we already have rules and procedures from DSPS that will more or less accomplish the same results and are consistent with how other boards operate. It's a bit hard when taking legislation from another state because you're not sure what provisions were included pursuant to something specific or customary in that other state and which are features that are wanted across all states.

Also, I have attached a document to provide more info about service corporations. Basically this would allow several CEPs to get together and start their own practice as a service corporation. But if that's not something that CEPs would do the same as physicians or lawyers would, we might not need that in the bill, and I'm told it's now common to do an LLC. Aaron Gary here who drafts in business law could give you more info if you need it.

-Mike

From: Houdek, Nathan
Sent: Monday, January 13, 2014 4:56 PM
To: Duchek, Michael
Subject: RE: CEP licensure bill LRB 3092 revisions

Thanks for your feedback on these items. I'll look this over and get back to you later this week. Please wait to make any changes until you hear back from me.

Thanks again.
- Nathan

--
Nathan D. Houdek
Office of Senator Jennifer Shilling
20 South, State Capitol
Phone: 608.266.5490
E-mail: nathan.houdek@legis.wisconsin.gov

From: Duchek, Michael
Sent: Monday, January 13, 2014 10:30 AM
To: Houdek, Nathan
Subject: RE: CEP licensure bill LRB 3092 revisions

Nathan, my apologies for the delay. See my responses below. Some of these I think it would be better for DSPS to look at and/or respond further to as they are the ones who administer these provisions. I'd be happy to reach out to them if desired. In the meantime, I will try to work on the changes that seem straightforward enough. Any questions in the meantime, let me know of course,

-Mike

From: Houdek, Nathan
Sent: Wednesday, December 18, 2013 11:19 AM
To: Duchek, Michael
Subject: CEP licensure bill LRB 3092 revisions

Hi Michael –

Thanks for your help drafting the Clinical Exercise Physiologist licensure bill (LRB 3092/P1). Based on conversations we have had with stakeholders, we would like to request the following changes. Many of these changes are based on the 'Model CEP Practice Act' (attached). I realize that some of the references in the model act might not be appropriate for Wisconsin state statutes, so feel free to share any feedback on these requests and potential concerns you might have with using language from the model act.

Requested changes to LRB 3092/P1:

Replace language on Page 5, lines 1 thru 11, with language from Section 3 – Definitions – from the model act.

I split the concept of a clinical exercise physiologist out into two concepts in the /P1 – one the clinical exercise physiologist itself, and two, the practice of clinical exercise physiology. I did this because this is how we generally draft provisions in chs. 440 to 480 and it's a little clearer to separate the concept of the licensee (the person) from the practice (what the person does) and the list seems to mostly relate to the practice. I would prefer to keep it this way to be consistent with other professions unless you feel it's unworkable for some reason. If that's OK, I would suggest instead trying to refine the definition of clinical exercise physiology in the /P1 and letting me know what needs to be changed. Let me know if I can elaborate on this further.

Replace language on Page 6, lines 1 thru 14, with language from Section 8 – Qualifications for Licensure – from the model act.

OK. I will try to revise this a bit to match the model act. However, consistent with other credentials, I will keep par.
(a). OK?

Delete lines 15 and 16 on Page 6.

OK.

Replace language on Page 6, lines 19 thru 25, and Page 7, lines 1 thru 3, with language from Sections 12 – Renewal; Restoration; Military Service – and Section 13 – Elective Inactive Status – from the model act.

We already have provisions about renewal for those who let their licenses expire/go inactive in s. 440.08 (3), so I would just let you know that I might have to override that provision in current law to the extent the model act is inconsistent but I'd recommend checking with DSPS about these provisions (I think that "inactive status" is essentially covered by 440.08 (3) as well). Re: military service – as far as I know, no other profession has a provision like this. I can include it, but I wanted to let you know this would be unique amongst credentials as far as I know.

Replace language on Page 7, lines 12 thru 23, and Page 8, lines 1 thru 6, with language from Section 17 – Grounds for Discipline – from the model act.

I will have to review these (and sections 18 & 20) a bit in further detail. However, note that DSPS has uniform procedures for professional discipline under the administrative code and it might be prudent to have them take a look at these proposed provisions for any issues as well. I am guessing DSPS might suggest avoiding including any provisions that are inconsistent with the uniform rules except when necessary. (The various boards generally all use these same

uniform rules.) Re: paragraph (b) of Section 17, I will have our mental health drafter take a look at this as I'm not sure how this would translate to Wisconsin law.

Also, insert Sections 18, 19 and 20 from model act.

Regarding Section 19, I believe this might be somewhat inconsistent with current Wisconsin law, s. 440.19, which deals with surrenders of licenses and what the effect of a "surrender" is. I could try to ask DSPS about this to confirm if desired.

Regarding your questions in the Drafter's Note on September 25:

For question 2 about the grandfather language, please see Section 10 – Transition Period – in the model act. Does that cover the issue of grandfathering?

I think so. I will let you know if I have additional questions.

For question 3, at this time we will not include additional position authority for DSPS.

OK.

For question 4, can you indicate in the draft that the board would be allowed to promulgate rules initially as emergency rules? Does this address the time concerns for promulgating the regular rules?

Yes, I can do that. Emergency rules generally can last up to 270 days, which generally is probably *not* enough time to do permanent rules. I can allow for emergency rules *beyond* 270 days, but I'd suggest asking DSPS how much additional time would be needed and then I can do that. Also note the delayed effective dates in the bill might be a way to address this as well if the licensure requirement did not kick in right away.

For question 5, I don't know the answer to that. From your perspective, does it make sense to add CEPs to the chpt. 180, subchapter XIX definition?

Let me check with the drafter who drafts in that area and see if he can offer further advice.

Additionally, the stakeholders with whom we have been discussing this bill have some questions that I am hoping you can help me answer.

Question 1) Does it make sense for the CEP affiliated credentialing board to be attached to the Medical Examining Board (as currently drafted), or would it make more sense to have a separate board, not attached to any existing boards? Essentially, what are the pros and cons of each option?

As far as I know, there are actually not huge differences other than the board is supposed to have its rules looked at by the MEB (if you want, you can compare s. 15.08 to s. 15.085). But I would really recommend talking to DSPS about what the real practical differences are from their perspective.

Question 2) Regarding your note after Section 9 – "This provisions simply provides that CEPs are not required to be licensed by the Medical Examining Board on the basis of the duties they perform." This is confusing since the purpose of the legislation is to allow for state licensure of CEPs. Can you clarify that note?

This provision basically just says that CEPs don't have to be licensed *as physicians*, to the extent that the practice of CEPs overlaps at all with the practice of medicine, as it appears there could be some overlap between the two practices.

Please let me know if you have any questions or need clarification on any of these requests and questions.

Thanks again.

- Nathan

--

Nathan D. Houdek

Office of Senator Jennifer Shilling

20 South, State Capitol

Phone: 608.266.5490

E-mail: nathan.houdek@legis.wisconsin.gov

Duchek, Michael

From: Houdek, Nathan
Sent: Tuesday, February 11, 2014 3:38 PM
To: Duchek, Michael
Subject: RE: meeting to discuss CEP licensure

Mike – The CEP advocacy group says that 10:00 on Feb 24th will work best for them. Let's plan on meeting then.

We can either use our office or I will reserve a conference room in the Capitol. I'll let you know.

Thanks,
- Nathan

--
Nathan D. Houdek
Office of Senator Jennifer Shilling
20 South, State Capitol
Phone: 608.266.5490
E-mail: nathan.houdek@legis.wisconsin.gov

From: Duchek, Michael
Sent: Tuesday, February 04, 2014 11:07 AM
To: Houdek, Nathan
Subject: RE: meeting to discuss CEP licensure

Also, Nathan, this is a good overview of the topic that I would recommend passing along if you haven't already:

http://legis.wisconsin.gov/lfb/publications/Informational-Papers/Documents/2013/98_Regulation%20of%20Professional%20Occupations%20by%20DSPS.pdf

-Mike

From: Houdek, Nathan
Sent: Tuesday, February 04, 2014 10:59 AM
To: Duchek, Michael
Subject: meeting to discuss CEP licensure

Hi Mike –

Following up on our phone conversation, can you tell me which of the following dates and times would be best for you to meet with the working group to discuss the CEP licensure bill?

Monday, Feb 17 anytime between 10am and 3pm
Monday, Feb 24 anytime between 10am and 3pm

Thanks,
- Nathan

--
Nathan D. Houdek
Office of Senator Jennifer Shilling
20 South, State Capitol
Phone: 608.266.5490
E-mail: nathan.houdek@legis.wisconsin.gov

Duchek, Michael

From: Houdek, Nathan
Sent: Thursday, February 20, 2014 3:58 PM
To: Duchek, Michael
Subject: FW: CEP licensure
Attachments: CEP definitions Feb 2014.docx

Hi Mike – Attached are some definitions for the CEP licensure bill that the advocates would like to discuss at the meeting on Monday. In response to the questions they raised, I told them that you will be better able to provide guidance about how the definitions should be written. I am waiting to hear back from the Senate Sgt's office about reserving a conference room for the meeting. I'll let you know when I have a room number.

Thanks, and I will see you at 10am on Monday.

From: Anderson, Bonnie [<mailto:BAAnderson@vmh.org>]
Sent: Wednesday, February 19, 2014 10:03 AM
To: Houdek, Nathan
Subject: CEP licensure

Hi Nathan

We are looking forward to meeting with you next Monday! In preparation for that meeting, we have looked at a couple of the definitions and wondered if you could take a look to see if we are on the right track. (attached)

Are they too long, too detailed, or is that detail necessary to assure that there isn't room for misinterpretation?

(We've learned the hard way that making changes to a law once passed, is next to impossible, so we want to get it right the first time ☺)

Thanks for any feedback you can provide.

Kindest regards!

Bonnie

Bonnie Anderson, MS
banderson@vmh.org
608-637-4292

IF YOU RECEIVE THIS MESSAGE IN ERROR, PLEASE CONTACT THE SENDER IMMEDIATELY AND THEN DESTROY THE SENT MATERIALS.

CONFIDENTIALITY NOTICE:

The information contained in this message is privileged and confidential information intended for the use of the individual or entity named above. Health Care Information is personal and sensitive and should only be read by authorized individuals. Failure to maintain confidentiality is subject to penalties under state and federal law.

Definitions:

"Clinical Exercise Physiologist" means a person who is duly licensed to practice clinical exercise physiology in the State of Wisconsin. The Clinical Exercise Physiologist (CEP) understands the advanced concepts and relevant scientific information surrounding human physiology during exercise. The CEP is uniquely trained to administer clinical exercise assessments; develop and implement exercise training protocols and programs; and provide risk factor modification and related education based upon test outcomes and relevant medical history. The outcome-based objectives developed by the CEP will focus on metabolism and energy transfer, along with cardiovascular, endocrine, respiratory, neural, and muscular system adaptations to acute and chronic exercise. The Clinical Exercise Physiologist prescribes exercise as a physiologic therapeutic tool to maximize health as part of the primary, secondary and tertiary prevention of multiple chronic diseases. The Clinical Exercise Physiologist works within preventive, clinical, diagnostic, and rehabilitative settings with a primary focus on individuals with cardiovascular, pulmonary, and metabolic disease and serves as a contributing member of a multi-disciplinary team in the continuance of care of patients with oncologic, immunologic, hematologic, chronic orthopedic, musculoskeletal, and neuromuscular disorders.

"Exercise Protocols and Programs", the intensity, duration, frequency, volume, and mode of activity to improve and/or maintain an individual's functional capacity.

"Board", the licensure board for CEPs, established under this Act.

Section 8. Qualifications for Licensure as a Clinical Exercise Physiologist.

(a) To qualify for a license to practice as a clinical exercise physiologist, a person shall:

(1) hold a **master's degree or higher** in exercise physiology, exercise science, or kinesiology from an accredited college or university approved by the board, or from an accredited Exercise Physiology educational program, **and** obtain a minimum of 600 hours of clinical experience as a clinical exercise physiologist,

(2) **or** have graduated from an educational program in clinical exercise physiology, exercise science, kinesiology, or applied exercise physiology chartered in a sovereign state outside the United States and have furnished to the board such evidence as it may require: (1) that the applicant's education is substantially the equivalent of that of graduates of approved programs in the United States, and (2) that the applicant has sufficient qualifications, including the proficiency in the English language, to practice clinical exercise physiology,

(3) **and** passed the American College of Sports Medicine's Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board.

Section 10. Transition Period. (Grandfather Clause)

(a) A license as a Clinical Exercise Physiologist may be issued without examination to an applicant who does not meet the educational requirements of section 8, if the applicant has a Bachelor's or Master's degree in exercise science, exercise physiology, adult fitness/cardiac rehabilitation, human performance, or kinesiology (or other related exercise science degrees as approved by the board) **AND** provides to the board's satisfaction that THE APPLICANT has been in paid professional practice in the field of clinical exercise physiology for five years or 10,000 hours out of the last ten years preceding the effective date of the regulations implementing this act **OR** has been in paid professional practice in the field of clinical exercise physiology for a minimum of one year or 2,000 hours out of the last five years preceding the effective date of the regulations **PLUS** has passed the American College of Sports Medicine's Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board..

(b) The provisions of this section shall expire one year following the effective date of the IMPLEMENTING REGULATIONS.

Duchek, Michael

From: Houdek, Nathan
Sent: Monday, March 10, 2014 10:25 AM
To: Duchek, Michael
Subject: FW: CEP bill 2 minor edits
Attachments: Bill_Edits_per_Drafting_Attorney_3-3-14.docx

Hi Mike – Attached are the edits to the CEP licensure bill from our meeting earlier this month. Please let me know if you need clarification or additional information regarding these edit requests.

Thanks,
- Nathan

--

Nathan D. Houdek
Office of Senator Jennifer Shilling
20 South, State Capitol
Phone: 608.266.5490
E-mail: nathan.houdek@legis.wisconsin.gov

From: Anderson, Bonnie [<mailto:BAnderson@vmh.org>]
Sent: Monday, March 03, 2014 12:28 PM
To: Houdek, Nathan
Subject: CEP bill 2 minor edits

Hi Nathan
Just a couple minor grammatical changes (in red) attached.
These were sent at the 11th hour...so sorry.

Bonnie

Bonnie Anderson, MS
banderson@vmh.org
608-637-4292

IF YOU RECEIVE THIS MESSAGE IN ERROR, PLEASE CONTACT THE SENDER IMMEDIATELY AND THEN DESTROY THE SENT MATERIALS.

CONFIDENTIALITY NOTICE:

The information contained in this message is privileged and confidential information intended for the use of the individual or entity named above. Health Care Information is personal and sensitive and should only be read by authorized individuals. Failure to maintain confidentiality is subject to penalties under state and federal law.

Bill Edits per 2/26/14 meeting with Michael Duchek, bill drafter

Page 4, Line 2-3: ...February 1 of each odd-numbered year

448.971 Definitions (Page 5, Line 1-11):

Line 1-2: “Clinical Exercise Physiologist” means an individual who holds a license to practice clinical exercise physiology granted by the board.

Line 3: “Practice of clinical exercise physiology” means any of the following:

Line 4-5: (a) Works with individuals with chronic medical conditions where exercise training has been shown to have a therapeutic benefit.

Line 6-7: (b) Administers clinical exercise assessments to individuals who have cardiovascular, pulmonary, or other chronic medical conditions as well as to individuals at risk for those conditions.

Line 8-9: (c) Provides individuals with education and instruction based upon medical history, clinical assessment outcomes, and exercise training principles.

Line 10-11: (d) Develops and implements exercise training protocols and programs for individuals who have, or are at risk for, cardiovascular, pulmonary and other chronic medical conditions, as well as to individuals at risk for those conditions, where exercise training has been shown to have a therapeutic benefit.

Line 12-13 (e) Or any other requirements as required by the board related to the practice of Clinical Exercise Physiology.

448.973 License

Line 12-14: The person provides evidence of certification as a Clinical Exercise Specialist or as a Registered Clinical Exercise Physiologist by the American College of Sports Medicine (ACSM), or successor organization or as determined by the board.

Line 15-16: Omit ACLS/BLS reference

Grandfather clause (placement of to be determined by drafting attorney)

A license as a Clinical Exercise Physiologist may be issued without examination to an applicant who does not meet the educational requirements, if the applicant has a Bachelor's or Master's degree in exercise science, exercise physiology, adult fitness/cardiac rehabilitation, human performance, or kinesiology (or other related exercise science degrees as approved by the board) **AND** provides to the board's satisfaction that THE APPLICANT has been in paid professional practice in the field of clinical exercise physiology for five years or 10,000 hours out of the last ten years preceding the effective date of the regulations implementing this act

OR

A license as a Clinical Exercise Physiologist may be issued without examination to an applicant who does not meet the educational requirements, if the applicant has a Bachelor's or Master's degree in exercise science, exercise physiology, adult fitness/cardiac rehabilitation, human performance, or kinesiology (or other related exercise science degrees as approved by the board) has been in paid professional practice in the field of clinical exercise physiology for a minimum of one year or 2,000 hours out of the last five years preceding the effective date of the regulations **PLUS** has passed the American College of Sports Medicine's Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board in the last 5 years preceding the effective date of regulations implementing this act.

(b) The provisions of this section shall expire one year following the effective date of the IMPLEMENTING REGULATIONS.

Duchek, Michael

From: Houdek, Nathan
Sent: Wednesday, March 19, 2014 11:12 AM
To: Duchek, Michael
Subject: FW: CEP bill 2 minor edits

Mike – The responses to your questions are below. Do those responses make sense? If not, you can e-mail Bonnie directly at banderson@vmh.org for clarification. Please CC me on any e-mail correspondence you have with Bonnie or any of the other stakeholders. Thanks.

1.) *In the grandfathering provisions it says “without examination.” However, nothing in the /P1 version references an examination. So what is “without examination” referring to? Does this mean that people who are grandfathered don’t have to be certified by the ACSM, etc.? We are hoping that just deleting the “without examination” would address your question:*

(a) A license as a Clinical Exercise Physiologist may be issued ~~without examination~~ to an applicant who does not meet the educational requirements, if the applicant has a Bachelor’s or Master’s degree in human performance,...

And in the second grandfathering provision, it says “PLUS has passed the American College of Sports Medicine’s Registered Clinical Exercise Physiologist or Clinical Exercise Specialist examination or equivalent as determined by the board in the last 5 years preceding the effective date of regulations implementing this act.” ~~Is a distinction being made between passing the examination for certification and being certified, or are they the same thing?~~ This was our intension: Or is this for people who have perhaps taken the examination and become certified and let their certification lapse?

2.) *Did you still want emergency rulemaking authority? I took another look at the last act that created a brand new board and credentialing requirement (2009 Act 106), and it looks like what they did was to have the whole bill take effect immediately, but to delay the requirement to get a license for 2 years, which is what I had in mind and should be enough to do regular rules. So you may want to just go with this for now unless DSPS thinks this will not be enough time. We would like it to take effect immediately and would also like to have the emergency rulemaking authority so that we could potentially have the rules take effect sooner than 2 years if possible. Does that make sense to you and Mike?*

--
Nathan D. Houdek
Office of Senator Jennifer Shilling
608.266.5490
20 South, State Capitol

